

Tuesday – April 24, 2007 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Diana Hollis Jones; Councilwoman Robin L. Cape; Councilman Jan B. Davis; Councilman Bryan E. Freeborn; Councilman R. Carl Mumpower; Councilman Brownie W. Newman; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Keisha Lipe

Absent: None

PLEDGE OF ALLEGIANCE

Mr. Walter Plaue led City Council in the Pledge of Allegiance.

INVOCATION

Mayor Bellamy gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 7, 2007, AS "WORLD AIDS ORPHANS DAY"

Vice-Mayor Jones read the proclamation proclaiming May 7, 2007, as "World Aids Orphans Day" in the City of Asheville. She presented the proclamation to Mr. Ron Curran of the WNC Aids Project, who briefed Council on activities taking place during this day.

B. PROCLAMATION PROCLAIMING APRIL 24, 2007, AS "WILMA SHERRILL DAY"

Mayor Bellamy read the proclamation proclaiming April 24, 2007, as "Wilma Sherrill Day" in the City of Asheville. She presented the proclamation and a gift to former Representative Sherrill. Former Representative Sherrill thanked City Council for their work over the years and looked forward to working with them in a different capacity.

II. CONSENT AGENDA:

Mayor Bellamy asked that Consent Agenda Item "D" be removed from the Consent Agenda for individual discussion.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON APRIL 10, 2007, AND APRIL 17, 2007

B. ORDINANCE NO. 3465- BUDGET AMENDMENT TO APPROPRIATE DONATIONS AND SMALL GRANTS RECEIVED BY THE ASHEVILLE FIRE & RESCUE DEPARTMENT FROM VARIOUS SOURCES

Summary: The consideration of a budget amendment, in the amount of \$5,406, to appropriate donations and small grants received by the Asheville Fire & Rescue Department from various sources.

Asheville Fire & Rescue has received \$5,406 in donations from various sources to date. This action requests that these funds be appropriated for departmental use.

Asheville Fire & Rescue receives donations and small grants from various sources throughout the year. These funds cannot be used to fund Fire Department general operations and must be appropriated to enhance fire prevention activities. To date, \$5,406 has been received. Specific uses for these funds have been identified, including purchasing promotional items for fire prevention, items for fire prevention education classes, and the purchase of a brochure rack for fire prevention education materials. Approval of this budget amendment will provide the department with the necessary budget authorization to expend these funds.

PROS:

- These funds have been provided at 100% with no city match.
- Asheville Fire and Rescue will be able to work more effectively with fire prevention education with these funds appropriated.
- Citizen availability to fire prevention materials will increase.
- Target age groups (children and elderly) will be better reached with fire prevention messages.

CON:

- None identified at this time.

Staff recommends City Council approve a budget ordinance amendment in the amount of \$5,406.00 to appropriate donations and small grants received by the Asheville Fire & Rescue Department from various sources.

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C. RESOLUTION NO. 07-89- RESOLUTION ACCEPTING THE BID AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH CARL WALKER AND ASSOCIATES FOR SPECIFICATION AND OVERSIGHT FOR REPAIRS AND MAINTENANCE TO THE CIVIC CENTER PARKING DECK

Summary: The consideration of a resolution accepting the bid of Carl Walker and Associates and authorizing the City Manager to execute an agreement with Carl Walker and Associates for specification and oversight for repairs and maintenance to the Civic Center Parking Deck.

The City of Asheville owns and operates the Civic Center, Rankin Avenue, and Wall Street parking decks. The Civic Center deck was built in 1976 and the other two in 1988. In 2003 an assessment was conducted on the condition of all three facilities. Numerous conditions were identified that needed repair. The Civic Center deck, being the largest and oldest, required the most repairs. The assessment was divided into emergency repairs and non-emergency repairs. The emergency repairs were completed in 2005. Funds in the amount of \$525,000 for the oversight contract and to do most of the non-emergency repairs to the Civic Center deck have been accumulated and are in the current budget.

Carl Walker and Associates will specify the details of the repairs to be made, assist in the preparation of bids, analyze and recommend the bid responses, oversee the quality of the repair work, and inspect and sign off on the completed contracts. The contract with Carl Walker and Associates is estimated to cost \$75,000. The contractor estimates that they will be able to specify the work needed, draft requests for proposals and recommend appropriate contractors within 90 days of the management contract being signed by both parties.

Pro:

- Correcting problems in the decks now will prevent more costly repairs later and will extend the useful life of the parking facility.

Con:

- There will be some inconveniences to parking patrons as the work progresses. With proper planning these can be minimized.

This action conforms with the Strategic Operating Plan in Planning Focus Area- Goal #2- A Multi-modal Transportation System, Task #1: "Determine opportunities for managing traffic demand through changes to commuting patterns and transportation modes, land use patterns, signalization improvements, etc."

City staff recommends that City Council approve a resolution accepting the bid of Carl Walker and Associates and authorizing the City Manager to execute an agreement with Carl Walker and Associates in an amount not to exceed \$75,000 for specification and oversight for repairs and maintenance to the Civic Center Parking Deck.

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D. PUBLIC PROCESS AND TIMELINE FOR PRITCHARD PARK RECOMMENDATIONS

This item was pulled from the Consent Agenda for discussion.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Freeborn moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

ITEM PULLED FROM THE CONSENT AGENDA FOR DISCUSSION

PUBLIC PROCESS AND TIMELINE FOR PRITCHARD PARK RECOMMENDATIONS

Summary: Asheville City Council has charged the Downtown Commission and Recreation Board with appointing a joint ad hoc committee to develop and oversee a public process for Pritchard Park recommendations.

The purpose of the public process is to gain citizen input on the current use, management and operation of Pritchard Park in order for the committee to develop recommendations for park enhancements. The evaluation process includes analyzing what is going well with Pritchard Park, what needs improvement and what are the opportunities for enhancing the park as a community park amenity. Based on the community's feedback, the committee will make specific recommendations to City Council for park improvements. The committee will complete and disband its work when recommendations are delivered to City Council.

Progress to Date: Based on City Council's direction, staff has convened a joint preliminary meeting of the Recreation Board and Downtown Commission members. At that meeting, the Recreation Board nominated three members to serve on the joint committee (Adam Pittman, Wind Motika and Scott Barnwell). The Downtown Commission named three members to the committee at its April 13 meeting. The remainder of the committee will be comprised of Amy Sawyer, the coordinator for the 10 Year Plan to End Homelessness, and a member of the

Asheville Police Department as well as any other community stakeholders the committee feels is necessary to conduct a thorough community process.

Recommended Public Process: The boards have approved the public process and timeline listed below.

Step	Description	Timeframe
Committee Formed	Boards nominate three members from each body to participate on the Pritchard Park Committee, request the Asheville Police Chief to nominate a seventh member and invite Amy Sawyer, the coordinator of the 10 Year Plan to End Homelessness to join.	Committee named by April 24 Subsequent meeting dates developed thereafter
Update to City Council	Present an update to City Council on the committee's formation and the steps in the public process.	April 24
Focus Groups	Invite key stakeholders to participate in a focus group process geared toward identifying key problems and opportunities.	Late April
Community Input Meeting	Host an open community meeting in downtown Asheville to gain input; incorporate small focus group exercises to gain input.	May
Committee Analysis & Recommendations	Pritchard Park Committee analyzes and evaluates public input in order to develop recommendations for City Council consideration.	Late May/Early June
Presentation to City Council	Pritchard Park Committee Chair presents recommendations to City Council.	Late June

The Downtown Commission, Recreation Board and City staff recommend City Council adopt the Pritchard Park Committee's proposed public process and timeline for Pritchard Park recommendations.

The following individuals spoke in support of allowing people to come together to share meals in Pritchard Park:

Rev. Amy Cantrell
A pastor of a church in Atlanta, Georgia
Ms. Denise Pendleton, small business owner and Asheville resident
A student at Warren Wilson College
Ms. Millie Riedel, Asheville resident
Mr. James Sheeler
Ms. Lindsey Popper

Councilman Mumpower said there is a struggle of what is loving and what is enabling. This is not about an absence of compassion for the homeless, not about food or about indifference or economic separation. For a lot of us, it's about behavior. A lot of people come to Pritchard Park and indulge in various behaviors that are extremely inconsiderate of others around them. The equation works both ways - not only us being concerned about the homeless, but the homeless being concerned about their responsibilities to others. He personally does not believe that we uphold people by letting them beg on our streets, be publicly intoxicated, or letting them break our laws. He will support this, but he hoped we can challenge the Committee to not only be nice, but be realistic.

Councilwoman Cape was concerned about the swiftness of the process and hoped that if the Committee sees that it needs more time, that there is flexibility in the process to ensure that the goals are met and not kept to a strict timeline. Mayor Bellamy assured Councilwoman Cape that if the Committee requests additional time, that Council would be amenable to that.

Mayor Bellamy said that on May 29, 2007, City Council will be hosting a meeting on homelessness so this issue is far from over.

Councilman Mumpower moved to endorse the joint ad hoc Pritchard Park Committee and approve their public process and timeline for Pritchard Park recommendations, with the understanding that Council will leave it open to the Committee to make modifications to the process if necessary. This motion was seconded by Councilman Davis.

After a short discussion initiated by Councilman Freeborn and Councilman Newman of the key stakeholders, Councilman Mumpower and Councilman Davis each agreed to accept the friendly amendment to include Rev. Amy Cantrell and someone from the streets to be key stakeholders and invited to participate in the focus group process.

Mayor Bellamy reminded the community that this Council is not sitting idly by regarding the homeless. We are in the process of installing restrooms downtown; using the Housing First model, we have housed 33 individuals who were formerly homeless; we have a 10-Year Plan to End Homelessness and are funding said Plan; and the City of Asheville hosted a one day event to help our homeless bringing in several aspects all into one location.

The amended motion made by Councilman Mumpower and seconded by Councilman Davis carried unanimously.

III. PRESENTATIONS & REPORTS:

A. COMMUNITY RELATIONS COUNCIL ANNUAL REPORT

Dr. Larry McCallum, Chairman of the Asheville-Buncombe Community Relations Council (ABCRC), thanked City Council for allowing him to give the ABCRC's annual report.

The mission statement of the ABCRC is that "We are people helping people develop mutual respect and eliminate discrimination in our community."

The ABCRC works with members of our community in targeting the issue of discrimination in housing, public accommodation, and employment. The services of this council are available to all residents of Buncombe County and the City of Asheville.

The highest priority of the ABCRC is addressing issues of discrimination in housing, public accommodations, and employment. Activities and programs which foster mutual respect are also incorporated as a role of the Council. By doing so, the Council serves as a representative voice for those who cannot speak for themselves.

The ABCRC is currently focusing on the major issue of providing service to a more diverse community. The Latino and Russian Communities are underserved. The process of building trust, understanding, and especially communication is hampered by the lack of funding for staff members to bridge this gap.

The Council seeks your help in funding these additional staff members for the next budget year.

The face of our community is changing and will continue to do so in a short period of time. It is an interesting fact that with people numbers also have a face. If we do nothing things will continue to change, but when the obvious is in view, it is essential that actions occur in accordance with change. Again he stated that they need Council's help in the next budget year.

He was asked to share with Council the Board's goals and objectives for the year 2007/2008. The following are the top priorities that were developed from their Strategic Planning Retreat:

Organizational Development

1. We want to seek additional funding, through grants, donations, fundraisers, and fees for services.
2. Initiate a marketing and public relations campaign that will communicate the services and mission of the ABCRC.
3. Improve the process for selection of board members and implement a more formal orientation and training for new board members.

Programming

1. Continue successful program targeting the elimination of illegal discrimination in employment, housing, and public accommodations.
2. Represent a voice for those who cannot speak.
3. Grow viably contemporary programs by inviting the community in through forums and workshops designed to keep the ABCRC at the center of community needs and issues.

Education

1. Promote quality education through cultural sensitivity, understanding, tolerance, and leadership training opportunities.
2. Promote inclusiveness of the faith community in the resolution of community concerns.
3. Improve the interaction between law enforcement and the public at all levels of the community.

More specifically for the 2007-2008 year our goals are to:

- Expand our outreach to more diverse communities
 - With your help we would like to hire additional culturally sensitive personnel.
 - This would allow us to increase investigations and testing to eliminate discrimination in these communities.
- Expand the awareness of the Community Relations Council
 - The Council is in the process of developing a marketing committee to promote the services of the council.
 - It is also a goal to add youth members to many of our committees to add their expertise and to grow the council.
- Promote quality education through cultural sensitivity, understanding, tolerance, leadership, and training
 - We currently have an Education Committee, but we want to redesign it for greater involvement

- Continue our scholarship program – each year the Council awards two scholarships to students in the Asheville City and Buncombe County School Systems
- Respond to requests for providing specific training in the areas of anti-bullying, gangs, and conflict resolution.

As Accomplishments

- The ABCRC held the second Annual African American-Latino Community Conference. This full day conference provides networking opportunities for the African American-Latino Communities and reduces racial polarization. We were pleased to have Congressman Heath Shuler and Representative Susan Fisher with us and we would like to have all of you in attendance this year.
- Developed the first Annual Law Enforcement Community Relations Award Program. This program's purpose is to develop a close relationship between law enforcement. This award is presented through nominations from the community.
- Secured a new source of funding with the Asheville Housing Authority. The Council will assist residents of the housing communities in community building, transitions to jobs and housing readiness.
- Established a closer working relationship with the religious community. Several meetings were held the organization of Christians for a United Community to partner on goals to reduce racism. Workshops were conducted that address racial tolerance at member churches.
- Investigated and closed with settlements over one hundred housing and employment complaints. These settlements totaled over \$40,000, including back pay, lost wages, housing deposits, and other types of compensation.
- Assisted in the relocation of persons in North Asheville, West Asheville, and Central Asheville. The people were generally poor and are currently being relocated due to development. Council has been instrumental in getting developers and the city to assist in relocation. Council also assisted the residents in working with other essential outside agencies that helped with the relocation process.
- Council members were requested to and assisted with the peaceful "One America March" last May. The march involved over 4,000 people moving through downtown Asheville. To our knowledge, there were no incidents of violence reported.
- The Council awarded two scholarships for outstanding community service to two young people. The council has awarded eight scholarships to date.
- The Council was requested to and assisted with the coordinated state of "Black Asheville" conference held on February 17, 2007, at UNC-Asheville.
 - The Council presented this year's Distinguished Service Award to Virgil Smith.

He again thanked Council for this opportunity to speak with them and to share a few highlights of their year. What you have heard was simply the tip of the iceberg and to tell about all that was done would take more than the allotted ten minutes. They do appreciate Council's financial support. He hoped that Council will assist them in providing additional service to an increased segment of population who are not receiving their full services.

On behalf of City Council, Mayor Bellamy thanked Dr. McCallum and the ABCRC for their hard work on behalf of the City of Asheville.

B. AIA DESIGN CENTER PRESENTATION

Mr. Alan McGuinn, Co-Chair of the Asheville Design Center, said that bridging the French Broad is the most important public development decision facing WNC in our lifetime. This project has the opportunity to double the size of downtown Asheville. It provides an opportunity to link urban and economic development to transportation, highways and the community. It also provides an opportunity to connect downtown to west Asheville and Emma.

Showing slides, he reviewed the NC Dept. of Transportation (NC DOT) proposed Alternatives 2 and 3. Both Alternates 2 and 3 mix interstate and local traffic on Patton Avenue, this is against the Community Coordinating Committee (CCC) report. He showed Alternate 5 and Alternate 4. The shortcomings of Alternate 4 are (1) highest cost alternative; (2) excess number (7) of bridges; (3) complicated interchanges; and (4) excess right-of-way size. The positive elements of Alternate 4 are (1) by bending 240 northward, Patton Avenue is opened with development sized parcels; and (2) with the straightening of Patton Avenue, development and connections can be made to West End/Clingman Avenue Neighborhood, Hilliard and the River.

He reviewed different Smoky Park Bridge scenarios, noting that a new bridge could establish an iconic image parallel to City Hall or the Vance Monument and it could reinforce the culture of place.

The Asheville Design Center's Alternate 4b proposal accomplishes (1) consumes less land; (2) returns right-of-way to the tax rolls; (3) provides for mixed-use development; (4) less impact on adjacent property; (5) allows for connection to local road network; (6) user friendly interchanges; (7) less highway movements; and (8) potential for a signature bridge.

A comparison chart of asphalt, right-of-way total area and cost/acres of asphalt were shown as follows: Alternate 4 - \$371,000,000; Alternate 5 - \$314,000,000; and Alternate 4b - \$150,000,000.

Comparison charts were used to show by the year 2025, the City will have added 20,000 new residents and Buncombe County will have added 80,000 new residents.

We see this as an opportunity for our community and the region in that it will have (1) more usable land for potential development as identified in the 2025 Plan; (2) connecting west Asheville to the downtown; (3) multi-modal integrated transportation; (4) connections to the river; (5) utilizes Brownfield redevelopment; (6) less visual and auditory impact on Montford; (7) increased state, county and city tax base; (8) potential reclaiming of surplus right-of-way; and (9) transformation of the regional economic base.

He outlined the 57 group community stakeholders. Their recommendations are (1) NC DOT Alternates 2 and 3 should not be pursued any further; (2) the Asheville Design Center's 4b should be included in the NC DOT Environmental Impact Statement process; (3) the CCC report and AIA 10 principles of livability must be met; (4) the overall completion date should be maintained and expedited; (5) a multi-disciplinary team (Urban Design, Transportation Planning, Design Engineer, Landscape Architect, Planning) should be commissioned to produce a context sensitive solution; (6) excess right-of-way land should return to the community for development or park space; (7) construction if I-40/I-26 connection should be reprioritized with construction starting prior to the connector; and (8) focus highway resources on local transportation such as improved connection of Emma Road to downtown, improvements to Sweeten Creek, varied transportation options, etc.

The bottom line is that this (1) makes our community more livable; (2) realizes development opportunities; and (3) saves land, time and money.

Mayor Bellamy said that the NC DOT has asked Council to hear their presentation on this issue and that has been scheduled for May 8, 2007. At that meeting, Council will have the opportunity to take action.

Mr. McGuinn said that they had a 3-hour worksession with the NC DOT about a month ago. At that meeting, they didn't say our Alternative 4b didn't work, they said they needed more information to make sure that the scheme does work. So, they have been working to prove that it does work. They could use some help engineering-wise to prove that this really does work. That

help could come from the NC DOT, the City or the County. We do need to work with the NC DOT on this process and have it included as one of their alternatives.

Councilman Newman thanked the people who have put in countless hours on this project. This is a specific design that the community can really fight for. The question is, from an engineering standpoint, does it meet all the standards for a federal interstate project and does it accomplish all of the transportation objectives that are set forth for the project. He would be open for the City of Asheville to help in terms of getting the initial engineering analysis questions answered. If the initial engineering is viable, then the NC DOT can carry it forward and that key information will not be holding the project up.

In response to Councilman Newman, Metropolitan Planning Organization Coordinator Dan Baechtold explained what the process would be if Alternative 4b is found to meet the standards for a federal interstate project.

Councilman Newman asked City Attorney Oast to research the question of how the right-of-way land that the NC DOT acquired years ago (and compensated property owners for that land), would go back to the community if a different alternative is chosen. In addition, he felt that the City needed to develop a process for infill development if a different alternative is chosen.

In response to Council's willingness to help with engineering questions, Mr. Baechtold said that the discussion on May 8 might make it clearer in terms of what the NC DOT is capable of taking on as part of their process vs. what they would need outside assistance with.

When Councilwoman Cape asked what kind of in-house expertise the City could offer in terms of GIS or engineering support, Mr. Baechtold felt that the information the NC DOT would probably need would be a pretty specialized type of service from probably an engineering firm that is familiar with big highway design, and familiar with the North Carolina process of environmental issues.

It was the consensus of Council that staff spend the time between now and May 8 to see what might be needed and have some options available for Council to consider, based upon what they hear from the NC DOT. Mr. Baechtold can then also have available a list of firms that may be of some assistance.

At 6:44 p.m., Mayor Bellamy announced a short recess.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REVISING THE SUBDIVISION STANDARDS

ORDINANCE NO. 3466- ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REVISING THE SUBDIVISION STANDARDS

Mayor Bellamy opened the public hearing at 7:04 p.m.

Assistant Planning & Development Director Shannon Tuch said that this is the consideration of an ordinance amending the Unified Development Ordinance (UDO) regarding revisions to the subdivision standards. This public hearing was advertised on April 12 and 20, 2007.

Staff has noted that the subsections of the UDO related to subdivisions have remained virtually unchanged since the UDO was adopted in 1997. Much of the current code references standards or processes that have changed over the last decade and is in need of updating. While making these updates, staff has taken this opportunity to try to re-organize and simplify the

information to improve clarity and comprehension. Lastly, as the City of Asheville grows and evolves, new citywide goals and objectives have been adopted; policy direction has been followed with the introduction of several new standards, along with the evaluation of another, to better guide residential development in the City.

The following is a summary that describes the changes proposed by the planning staff. Some of the more significant changes/additions have been identified with an asterisk (*).

Corrections – Existing standards were closely reviewed for inaccurate or lost references. Those references have been removed (where appropriate), corrected, or modified to reflect current standards and practices.

Remove Engineering/Construction Standards – these standards are covered separately in the *Standards and Specifications Manual*.

Update Definitions – add new definitions for “Planned Community” and “Gated Community”.

**Re-organization/Re-formatting* – As with other recent amendments, all staff involved in the review of subdivisions agreed that it was in the City’s best interest to produce a revised code that was easier to understand and apply. Paring down and re-organizing the content of the section was proposed by group of planning staff members who worked together to develop an outline that was easier to read and follow. Much of the former code was simply “cut-and-pasted” into the new outline with some new information added where necessary.

** Establish a threshold for Level III Review for Large Single Family Subdivisions* – Heightened awareness and concern over the real and potential impact of large residential single family subdivisions has resulted in the requested consideration of those developments as Level III reviews. No special conditions beyond those already required for Conditional Use Permits (CUP’s) are proposed.

Add New Compatibility Standard for 4-lot Homes. Staff is proposing to add new standards that would strengthen compatibility between new infill homes on small 4-lot subdivisions and the existing homes in the area.

Re-emphasize Enforcement of Subdivision Review by Plat – Currently, the division and transfer of land by deed is prohibited and constitutes a Class 1 Misdemeanor. This standard has been relocated to a more prominent and frequently referenced section of the code.

Provide timeframes for re-submissions and revisions to plats before re-application is required – Currently, no timeframe is provided and establishing one will aid surveyors and staff to properly process a request.

In addition to these proposed changes, staff also evaluated a recommended change to our *Alternative access for small (four single family lots or less) subdivisions* (Sec. 7-11-1(j)2) that would eliminate a separation requirement between these small subdivisions. The alternative standards for small subdivisions were created to encourage small-scale residential infill development that would have much lighter road and access requirements for the creation of new single family lots. A separation requirement of 1500 feet between these subdivisions was intentionally added to control the proliferation of lots with non-standard access and infrastructure. After consideration (see pros and cons below), staff is not recommending that the separation requirement be eliminated and is instead proposing to amend the established subdivision modification process to review alternative requests on a case by case basis; these requests would be reviewed and approved by the Technical Review Committee. Should the Commission wish to explore this further, staff would recommend the consideration of an alternative that would

either 1) reduce the separation requirement, or 2) establish a standard(s) for waiving the separation requirement.

Lastly, City Council provided direction to staff to bring forward an amendment that would prohibit gated communities. This request was incorporated into an earlier draft of the new subdivision standards; however, at their March meeting the Planning & Zoning Commission requested that this portion of the amendment be removed from the rest of the subdivision standards for separate consideration at a later date. Additionally, the Commission requested that alternatives that would restrict gated communities in lieu of a prohibition be presented. Most recently, the Commission reviewed this separate amendment for gated communities at their April 4th meeting where the amendment was once again continued to allow staff additional time to investigate a more defensible set of standards. A revised draft will be presented to the Commission at their upcoming May 2nd meeting.

In summary, this ordinance is intended to:

1. Replace the existing *Subdivision Plat Approvals* Section (Sec. 7-5-8) in its entirety, with a corrected and updated version. This version includes text that would allow for reduced separation between 4-lot subdivisions to be considered as a 'Subdivision Modification'.
2. Replace Article XV *Subdivision Regulations* in its entirety, with a newly revised and updated version.
3. Amend Article II to include a definition for "Planned community"
4. Amend Article XI (Sec.7-11-1(j)2) to include new standards for compatibility of new structures (Commission may also choose to amend this same subsection to change separation requirements).
5. Amend the existing *Site Plan Review* Section (Sec. 7-5-9) to establish a Level III review for subdivisions over 50 lots.

This draft has been circulated to CIBO, CAN, and CREIA along with other interested parties.

Pros:

- Provides a format that is easier to read and comprehend.
- Better reflects City adopted goals/objectives and current practices.
- Provides opportunity for influence on larger and higher impact subdivisions.
- Ensures the compatibility of new structures built on 4-lot subdivisions with other homes in the area.

Con:

- Large subdivisions would require a public hearing.

Eliminating the Separation Requirements for 4-lot Subdivisions

Pros:

- Will increase the opportunity for infill lots off of private drives
- Will require less impact from necessary infrastructure (however, there are no site disturbance limitations for single family home development)
- Will result in infrastructure cost savings

Cons:

- Will result in a significant increase in the number of lots with non-standard access
- Will result in a significant increase in the amount of non-standard (reduced) infrastructure that could not be maintained by the city (homebuyer to incur cost of maintenance)
- Will likely result in less connectivity, or opportunity for connectivity between subdivisions

- Cannot guarantee that lighter infrastructure requirements would result in a reduced impact to the overall site, or that cost savings incurred by developer will be passed on the homebuyer

Staff recommends City Council approve an ordinance amending Chapter 7 of the Code of Ordinances the City of Asheville establishing subdivision standards.

Mayor Bellamy closed the public hearing at 7:10 p.m.

Councilman Mumpower moved to approve the amendment to the UDO to revise the subdivision standards. This motion was seconded by Councilman Newman.

There was considerable discussion, initiated by Councilwoman Cape, about the separation requirement of 1500 feet between the subdivisions. Councilwoman Cape requested further information on the reasoning of the arbitrary 1500 foot separation since she felt this would be a good tool to create affordable housing, like cottages, and would allow for smaller roads, configurations and still allow us to utilize some pieces of land. She suggested that if there was another subdivision within 1500 feet and there were reasons why another one may be good in this area, perhaps they would have to get the community in the area to okay the project.

When Councilman Mumpower wondered if there was another objective way to limit the abuses of the 4-lot subdivisions, Ms. Tuch said that each case is different. The separation was a simple, easy to apply method for staff to control that unnecessary proliferation with the possibility for unique or special circumstances to be considered through the modification process.

In response to Councilman Mumpower, Ms. Tuch said that the 1500 feet separation was a figure arrived at by the Engineering Department, but it was probably an attempt to control the proliferation of 4-lot subdivisions.

Councilwoman Cape could agree with the ordinance as written now, if staff would have a willingness to come back and give some thought to what some of these considerations could be, e.g., not two built side-by-side on the same street, etc. She asked them consider a set of guidelines, not just an arbitrary number. Ms. Tuch said that they can establish some basic guidelines as a hand-out for developers. She also noted that the subdivision modification section of this amendment does sort of describe what justifies a modification.

Mayor Bellamy asked that as we look at whatever criteria there is for 4-lot subdivisions, they also have landscaping requirements so if there is not the 1500 foot distance that there be some type of buffering between the 4-lot subdivisions. Ms. Tuch said that the landscaping ordinance will be back before Council on May 8, 2007.

Councilman Mumpower was not comfortable with moving forward as he felt the 1500 foot separation is an arbitrary number. Therefore, he withdrew his motion to approve the ordinance.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Jones moved to approve Ordinance No. 3466. This motion was seconded by Councilman Newman and carried on a 6-1 vote, with Councilman Mumpower voting "no."

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Mayor Bellamy announced that the following three public hearings overlap. Therefore, it was her suggestion, and Council's consensus, to hear the staff presentations, open and continue the public hearings after public comment and Council questions, and vote on the three

amendments separately on May 8, 2007, which will give City staff the opportunity to allow staff time to respond to the public's and Council's questions. In addition, Mayor Bellamy asked that a page be set up on the City's website for citizens to review the questions and responses. It was noted that when the public hearing is continued on May 8, that the public comments will be limited to new information only.

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REVISING THE OPEN SPACE REQUIREMENTS

Mayor Bellamy opened the public hearing at 7:34 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance amending the Unified Development Ordinance (UDO) revising the open space requirements. This public hearing was advertised on April 12 and 20, 2007.

This code amendment is intended to implement goals, objectives and tasks of the City Council's Strategic Operating Plan (SOP) related to the Natural and Built Environment. The SOP proposes enhanced recreational facilities, especially greenways, as well as a fee-in-lieu program. The UDO currently contains requirements for open space provision for property being developed or redeveloped for residential and for tourist accommodation purposes. These requirements note the connection between development and loss of open space, and include measures to compensate for this loss. In practice, however, the current requirements are not especially effective in providing meaningful compensatory open space and may, in some cases, actually be at odds with City smart growth policies that promote a more urban development pattern. The proposed ordinance provides a more balanced approach to open space provision by better relating it to the use proposed for the property, the associated zoning district or districts, and any related park, greenway and open space plans and policies. Additionally, there is greater flexibility created by providing for fee-in-lieu of open space.

In summary, open space (1) expands open space requirements into smaller developments; (2) recognizes the qualitative differences between urban open space amenities and suburban open space amenities; (3) eliminates the open space "penalty" for denser residential or mixed use developments; (4) provides the developer with a fee-in-lieu option; and (5) helps implement the Greenway Master Plan.

The amendment has been routed to CAN, CREIA, and CIBO, among others, for review and comment.

Pro:

- Creates a simpler, more flexible set of open space regulations.

Con:

- Some projects may not be pursued due to expense of compliance.

Staff recommends City Council approve an ordinance amending the UDO revising the open space requirements. The Planning and Zoning Commission recommends approval of the proposed code amendment by a unanimous vote (6-0).

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE CREATING RETAINING WALL REQUIREMENTS

Mayor Bellamy opened the public hearing at 7:34 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance amending the Unified Development Ordinance (UDO) creating retaining wall requirements. This public hearing was advertised on April 12 and 20, 2007.

Since the steep slopes and ridgetop ordinance will result in the increased construction of retaining walls to minimize grading and land disturbance, a separate ordinance regulating retaining walls has been developed in concert with that ordinance, although the retaining wall requirements will apply to a broader range of circumstances than just steep slope and ridgetop situations. We feel there needed to be some requirements to screen the walls, make them more attractive and to address their visual impacts. If you have retaining walls at a certain height, there are landscaping requirements that can be one of two kinds (1) you can provide foreground landscaping or (2) you can provide an attached green screen to the retaining wall to address the appearance issues. In addition, there are provisions to allow the use of either the natural or artificial stone to serve as an aesthetic issue associated with retaining walls.

The amendment has been routed to CAN, CREIA, and CIBO, among others, for review and comment.

Pro:

- Provides a mechanism to address the impacts of retaining walls.

Con:

- Will likely add to the cost of retaining walls.

Staff recommends approval of an ordinance amending the UDO creating retaining wall requirements. The Planning and Zoning Commission recommends approval of the proposed code amendment by a unanimous vote (7-0).

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING STEEP SLOPE AND RIDGETOP REQUIREMENTS

Mayor Bellamy opened the public hearing at 7:34 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance amending the Unified Development Ordinance (UDO) deleting hillside as development requirements and replacing them with steep slope and ridgetop development requirements. This public hearing was advertised on April 12 and 20, 2007.

City Council has requested that staff develop new regulations pertaining to steep slope and ridgetop development. Council direction was to strengthen the regulations and broaden their scope. Steep slope and ridgetop development regulations, to be effective, must take into account a wide variety of factors. These factors include:

- Percent of slope
- Extent of grading
- Width of road corridors
- Residential density
- Nonresidential intensity of development
- Structure height
- Preservation of trees and other significant vegetation
- Geotechnical analysis for very steep slopes and identified landslide hazard areas

The ordinance has been crafted to account for these factors. City staff has developed this ordinance by examining "best practices" in numerous communities across the country. We have reviewed the ordinance components with a focus group of design professionals. We have received comments from the public via a well-attended public meeting and through email and other correspondence. We have also examined development in and around Asheville to

ascertain what makes some steep slope development relatively innocuous and other such development conspicuous.

This ordinance is intended to replace the hillside requirements (Section 7-12-4) and augment the protected mountain ridges regulations (Section 7-12-3).

To summarize the Steep Slope and Ridgetop ordinance, it proposes to:

- Provide definitions for technical terms
- Designate steep slopes and ridgetop areas
- Apply to virtually all new development and to additions of a certain size
- Establish grading allowances based on degree of slope
- Establish road corridor width standards
- Provide standards for artificial slopes
- Limit structure height in steep slope and ridgetop areas
- Require preservation of trees and stands of rhododendron and mountain laurel
- Provide density and intensity limits
- Require geotechnical analysis
- Allow density and intensity bonuses for clustering or location of development on less steep areas

Issue of Concern:

Areas to be designated as “steep slope areas”. Staff has been directed by Council to strengthen and broaden the steep slope requirements. Pursuant to this direction, we initially proposed areas previously designated as “hillside” areas (2,220 feet or higher in elevation and 15% or greater in slope) and added areas below 2,220 feet with a slope of 25% or greater. Once the impact of the added language was determined for nonresidentially-zoned properties (such as the Hospital), we revised the added areas to cover residentially-zoned areas only. This issue was considered by the Planning and Zoning Commission on several occasions, the last of which was April 4, 2007. After significant discussion, the Commission voted 6-1 (Byers opposed) to recommend the language in the ordinance apply the “steep slopes” designation to areas above 2,500 feet in elevation and having slopes of 25% or greater. This recommendation would strengthen the requirements for areas covered by the “steep slopes” designation but would reduce the area covered by such designation below either the staff proposal or the existing “hillside” regulations. The Commission was convinced by public comments that the areas covered by their recommendation were the most significant areas in terms of public safety and viewshed impacts, that there were potential impacts on affordable housing and general development cost, and that there were areas covered by the hillside requirements (particularly areas such as the Pioneer Welding site and parts of The Ramble) that would be negatively impacted by the staff proposal. He showed three photographs illustrating the effect of the adjustment in elevation on Reynolds and Town mountains.

Staff has concerns about how to align this proposal with the general charge from Council to strengthen the requirements and broaden their scope. This proposal strengthens the requirements but limits their scope. Alternative options for Council consideration are:

- Retaining the staff proposal from March 7 (“hillside” plus residentially-zoned areas below 2,220 feet with a slope of 25% or greater).
- Retaining the “hillside” area as the sole “steep slope” area (in other words, simply strengthening the requirements in the area already regulated).

The amendments have been routed to CAN, CREIA, and CIBO, among others, for review and comment.

Pro:

- Provides a more comprehensive and effective approach to steep slope and ridgetop development regulation.

Con:

- Will likely result in increased cost of development on steep slopes and ridgetops.

Staff recommends approval of the proposed code amendment after due consideration of the appropriate designation of "steep slope" areas. The Planning and Zoning Commission recommends approval of the proposed code amendment by a vote of 6-1.

He noted that depending on Council action, some tables, charts and illustrations in the Steep Slopes and Ridgetop ordinance will require adjustment prior to codifying.

On this issue alone since September, 2006, there have been (1) four Planning & Zoning Commission meetings; (2) one Planning & Zoning Commission half-day retreat; and (3) one community meeting.

Steep slopes & ridgetops - (1) where to apply; and (2) what to regulate: density, amount of grading, amount of tree removal, height and width of road corridor; height of structures; and appearance of retaining walls.

Where to apply - steep slopes: "Hillside" areas (previously regulated) - areas above 2220 feet in elevation and having slopes greater than 15%. Other "steep slope" areas - areas not designated as "hillside" but having slopes greater than 25% in residential zones. Using a map, he showed the approximate steep slope qualifying areas.

Where to apply - ridgetops: (1) "protected mountain ridges" (previously mapped and regulated); and (2) areas within 100 vertical feet of a ridgeline that is 500 or more feet above the adjacent valley floor when the ridgeline is designated watershed boundary.

What to regulate - density (1) regulate density allowed based on slope of property; and (2) standard density in RS-2 example is 2 units per acre. He used a slide showing the percent of slope in the City of Asheville and Buncombe County, noting that Buncombe County doesn't start their regulations until 25% slopes.

What to regulate - grading - regulate percent of grading allowed based on slope of property. He used a slide showing the percentage slope in the City of Asheville and Buncombe County.

Associated with grading is the cut and fill slopes that are created. The staff proposal is: (1) 1.5:1 cut slope, provided the vertical dimension is held to a maximum of 30 feet and "reforestation" vegetation is planted; and (2) 2:1 fill slope, provided the vertical dimension is held to a maximum of 40 feet and "reforestation" vegetation is planted.

What to regulate - tree removal (1) protection of trees on both the uphill and downhill sides of the sites to be developed; and (2) preserve both larger trees and large groupings of mountain laurel and rhododendron.

What to regulate - road corridor width. Our standards determine how wide that is width is because we might require sidewalks or an area outside the street pavement area for utilities. We think it would be appropriate to include a provision that would really limit that right-of-way to 32-40 feet right-of-way with a 20 foot pavement area.

What to regulate - height - measure height to the effective scale of the building and provide incentives - (1) height bonus for darker buildings (LRV \leq 25) with 50 foot and downslope setback; and (2) bonus does not apply to ridgetop development.

The following individuals spoke in support of staff's recommendation of "hillside" plus residentially-zoned areas below 2,220 feet with a slope of 25% or greater for various reasons, but basically in order to ensure responsible development on high profile, fragile areas. There was a request (1) for a mandatory geotechnical analysis of any slopes of 25% or greater that are proposed for development in areas designated as high hazard or moderate hazard on the Buncombe County Slopes Stability Index Map prepared by the N.C. Geological Survey; and (2) for factual data (science based information, altitude study, etc.) to be provided by experts.

Dr. Peter Gentling, north Asheville resident
Mr. Mike Lewis, north Asheville resident
Ms. Mia Evans, north Asheville resident
Mr. Aaron Thomas, Asheville resident
Mr. Jay Quinn, representing the Grove Park Sunset Mountain Neighborhood Association
Mr. Joel Bassett, Asheville resident
Ms. Heather Rayburn, north Asheville resident
An Asheville resident
Mr. Joe Minicozzi, President of the Coalition of Asheville Neighborhoods
Ms. Beth Trigg, Montford resident
Mr. James Sheeler, Asheville resident
Ms. Jane Mathews, Asheville resident
An owner of steep slope property

The following individuals spoke in support of the Planning & Zoning Commission's recommended language to apply the "steep slopes" designation to areas above 2,500 feet in elevation and having slopes of 25% or greater for various reasons but basically in order to support the balance issue between sustaining our tax base in the community as well as looking at protecting the quality of life in our community:

Ms. Laura Copeland, representing the Asheville Area Chamber of Commerce
Mr. Paul Zurick, representing Biltmore Farms
A representative from Mountain Council for Accountable Development
Mr. Shawn Sullivan, licensed general contractor and Vice-President of the Asheville Homebuilders Association

Ms. Suzanne Malloy suggested Council take the existing proposal of 2220 feet up to 2500 feet, exclude the density requirements, and apply the grading standards, tree protection standards, alternative landscaping standards, some height standards, etc. Doing that, she feels that Council will actually be able to protect those areas and increase the hillside development ordinance standards.

Mr. James Wood, Asheville resident, commented on retaining walls. He commented as follows: (1) requested to put a maximum height, length and square footage on retaining walls; (2) make sure that retaining walls don't become eyesores from roadways; (3) request for more dense planting requirements to adequately cover the retaining wall; (4) American holly should also be preserved; and (5) planting of trees and shrubs is better than attaching a green screen.

Ms. Barber Melton, member of the Flood Damage Reduction Task Force, supported the staff's recommendation of "hillside" plus residentially-zoned areas below 2,220 feet with a slope of 25% or greater and read the following resolution adopted by the Task Force on April 20, 2007: "Resolution supporting City of Asheville Planning Department staff's recommendation to City Council regarding steep slope ordinance. Whereas, Asheville City Council established the Flood Damage Reduction Task Force in June 2006; and, Whereas, the Flood Damage Reduction Task

Force was charged with to review and make recommendations to City Council on ways to reduce damage due to flooding; and, Whereas, City Council is considering amending the Unified Development Ordinance as it relates to steep slopes and ridge top development; and, Whereas, the Flood Damage Reduction Task Force has determined, based on expert presentation, that the development of steep slopes can have an impact on flood damage downstream. Now, therefore, be it resolved by the Flood Damage Reduction Task Force that they: Request that Asheville City Council approve City of Asheville Planning and Development staff's recommendation regarding the Steep Slope Ordinance, particularly as it relates to requiring these regulations impact properties over 2220 feet in elevation with a 15% average slope."

Mr. Robert Cox, owner of a steep slope lot on Windswept Drive, urged Council to not apply these standards to previously approved subdivisions.

An owner of steep slope property voiced the following concerns: (1) density bonuses are too great; (2) no mandatory requirement for using the low light reflective value materials and colors; (3) against the alternative landscape plan option; (4) fee in lieu of for open space requirements.

The following questions were raised by individual Council members, some of which were responded to by Mr. Shuford: if a density bonus is sought through an easement on sensitive areas, does that mean we would place a conservation easement on the property with a land trust organization or something less formal; was any consideration given to looking at a more focused area of the actual land that would be graded or the actual footprint of the development, opposed to looking at the entire size of the property; can you build multi-family developments up to 8 units in single-family zoned areas in order to encourage clustering; request for additional information on slide potential based on grades and examples in Asheville where the property is 25% or less where people have had serious problems with slides; would every development automatically get the density bonuses because by definition they have to preserve the amount of space that the steep slope ordinance requires them to set aside; is it possible to make the policies around things that will help developments blend in mandatory rather than incentives; request for additional information on what we can incentivize and what we can make mandatory; what are the options to strike a balance between the ability to construct affordable housing and provide additional protections for our ridges and steep slopes; request for comparison information on (1) if the City passes the Planning & Zoning Commission's recommendation, will Buncombe County have stricter regulations than the City and (2) if the City passes the staff's recommendation, will Buncombe County have stricter regulations than the City; under the staff's recommendation, how many existing homes would not have been built; request for Chamber of Commerce to provide Council with a list of names and contacts for the experts they consulted in order to support the Planning & Zoning Commission's recommendation; request to find out the particulars of the development on Cisco Mountain; could the development on Reynolds Mountain happen under our current hillside regulations; is the extensive road grading on Reynolds Mountain in the City of Asheville; data on whether elevation is really related to soil stability; would like an outside expert opinion on a grade reduction of the geotechnical analysis requirement; how many total acres are there in the City of Asheville; what is the process for pre-existing subdivisions and is there an opportunity for a variance or an appeal process for the owner; request for additional information on green screens for retaining walls and are there any existing green screens in Asheville; request that everyone share the educational research; is there a way to separate out the viewshed protection elements from the personal safety elements; need to come up with better mapping for the overlay hillside, steep slope process that is not just a number, but has some relevance to where there are good, sensible places to build in the community; information on the possible creation of development encouragement zones; how can we accommodate the regional beauty of our slopes and still have development where it needs to be done; request to find a way to restrict the type of development near the French Broad River (homes practically built on stilts); need to have steep fines or stop work orders if situations similar to the mudslide on Cisco Road happens; is our stormwater ordinance strong enough to prevent similar situations on Cisco Road; request for additional information on why the recommended retaining walls are so tall; how many

houses do we have within Asheville that are in danger of sliding; what is the history of the Sunset Mountain development; request for information on taking control over other people's property without compensation; since the Town of Boone is currently in a lawsuit over their ridgetop and hillside ordinance (which is more stringent than ours), information was requested about whether the City would have to compensate developers or owners because they couldn't reap the total benefit of their land; and whether compensation is due to property owners if the City down-zones their property.

Mayor Bellamy asked that Council submit their questions in writing to staff in order to have them responded to and placed on our website.

In response to Vice-Mayor Jones, Mr. Shuford said that parts of Reynolds Mountain are in the City of Asheville. The area was subdivided in the County around 1999 and a portion was brought into the City. There was an extraterritorial jurisdiction area discussion with the Town of Woodfin about what part of Reynolds Mountain would go into Woodfin and what part would go into Asheville. There is a portion that is in Asheville. In fact, there are two homes that are at the top of the ridge that are very prominent. Those are in the City of Asheville, but again the lots were created in the County and not under the City hillside regulations. A good portion of Reynolds Mountain, since that time, has been annexed into Woodfin and the development that is primarily seen from US 19-23 is in the Town of Woodfin. He also noted that one of the reasons why portions of Reynolds Mountain went into Woodfin was to avoid our infrastructure standards.

Mayor Bellamy requested more stringent landscaping requirements in the subdivision regulations and for infill development. She felt that requiring additional landscaping is necessary even if the uses are the same. In addition she asked that we limit speculative grading as much as possible.

Councilwoman Cape moved to continue the three following public hearings until May 8, 2007: (1) revisions to the open space standards; (2) creation of retaining wall requirements; and (3) revisions to the steep slope and ridgetop requirements. This motion was seconded by Councilman Freeborn and carried unanimously.

At 9:57 p.m., Mayor Bellamy announced a short break.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 07-90- RESOLUTION ESTABLISHING ENERGY AND CONSERVATION GOALS AND BENCHMARKS FOR THE CITY OF ASHEVILLE

RESOLUTION NO. 07-91- RESOLUTION ADOPTING LEADERSHIP IN ENERGY & ENVIRONMENTAL DESIGN (LEED) STANDARDS

Public Works Director Mark Combs said that this is the consideration of a resolution establishing energy and conservation goals and benchmarks for the City of Asheville and consideration of a resolution adopting Leadership in Energy and Environmental Design (LEED) Standards.

The Sustainability Advisory Committee on Energy and the Environment (SACEE) has completed City Council's directive on December 12, 2006, to (1) recommend energy conservation goals for City operations; and (2) recommend level of LEED certification for new City buildings.

The SACEE has worked diligently with ICLEI staff, experts in the field, and with other municipalities across the U.S. to formulate pragmatic and thoughtful recommendations which will benefit Asheville and its citizens. Two separate resolutions have been drafted outlining how staff should implement each goal.

For Directive 1 (energy conservation goal), the annual City energy usage snapshot is (1) electrical energy costs for 2001-02 is \$2,989,127; and (2) fuel costs (gasoline, diesel, CNG) for Fiscal Year 2006 is \$1,122,950 which equals 536,614 gallons. The recommendation is to reduce greenhouse gas emissions by City operations by 2% per year from 2007 emissions measurements until we have achieved an 80% reduction from baseline year emissions (2001-02). That would include (1) developing a Strategic Energy Management Plan; and (2) create a Sustainability Coordinator position to implement program. The rationale would be (1) benchmarked other cities nationwide; (2) received input from ICLEI staff; (3) goal of 2% per year is reasonable and achievable; and (4) 80% cuts in emissions are being referred to as a "solution commensurate to the scale of the problem."

In summary, Directive #1: Define specific energy and conservation goals for Asheville: The SACEE recommends a 2% per year reduction (from Fiscal Year 2006-07 levels) until we reach an eighty percent (80%) overall reduction.

Pros:

- 2% is a pragmatic, attainable goal which considers staff and resource limitations
- Any change in culture is best implemented in slow, incremental steps
- Reducing energy usage 'avoids' rising energy cost expenses to the organization
- Asheville is taking a leadership role in the community (to share successes)

Cons:

- Capital funding may be required to accelerate investment in cleaner and more efficient vehicles, equipment and building systems.

This action conforms with the Strategic Operating Plan in Natural & Built Environment, #33.

He explained that the LEED is the national green building standard developed by the U.S. Green Building Council. He then explained the LEED point system and using a chart explained the different LEED certification levels and whether it is more expensive to build green. For Directive 2 (LEED standards for City buildings), the recommendations are (1) new, occupied City buildings greater than 5,000 sq. ft. designed and built to achieve LEED Gold Certification level; (2) new, occupied City buildings less than 5,000 sq. ft. be designed and built to achieve LEED Silver Certification level; and (3) for buildings greater than 5,000 sq. ft., if energy savings payback period is greater than 10 years, then design and built to LEED Silver Certification level. The rationale would be (1) studies indicate that the cost premium of the Gold level over the Silver level is only 0.3% or less; (2) a "Gold" building will lead to a much higher cost savings than a Silver certified building, outweighing the additional cost; and (3) community stakeholders have indicated that they want Asheville to be a leader in sustainability practices.

In summary; Directive #2: Develop Specific guidelines for future municipal facilities to be LEED certified, the SACEE recommends the following:

- a) Buildings greater than or equal to 5,000 square feet will be built to LEED 'Gold' certification level;
- b) Buildings less than 5,000 square feet will be built to LEED 'Silver' certification level; and,
- c) Any building which cannot recoup the additional expenses for LEED construction standards within ten (10) years will be built to LEED 'Silver' certification level.

Pros:

- For a modest investment in building design and construction, significant energy savings will be realized

- As energy costs continue to go up, homes and commercial buildings (lease) which use less energy will financially benefit both owners and occupants
- Less energy production results in cleaner air (better community health, tourism, etc.) and conserves precious energy resources
- LEED-type building practices is a growing world-wide trend

Cons:

- Capital funding may be required for the additional costs in design and construction

This action conforms with the Strategic Operating Plan in Natural & Built Environment, #34.

The Sustainability Advisory Committee on Energy and the Environment recommends City Council approve a resolution establishing energy and conservation goals and benchmarks for the City of Asheville and a resolution adopting leadership in Energy and Environmental Design (LEED) Standards.

Mr. James Wood hoped that the City pushes for Gold standards and it sends a strong message.

In response to Vice-Mayor Jones, Mr. Combs said that LEED is becoming the prominent type of building culture and as that culture gains ground the building materials are far easier to get a hold of and volume is driving down the price.

Councilman Freeborn was interested in seeing what our energy costs are today as an organization and if we reduce our gas emissions by 2% per year, how will that affect our bottom line. Co-Chair of the Sustainable Advisory Committee on Energy and the Environment Margie Mears said that they will provide Council with those numbers, as they are still gathering benchmark material. They feel that the first year savings is in the order of \$80,000 or more.

Councilwoman Cape felt that the Council did a great job in selecting people for this Committee. They did the research Council requested and she commended the process.

There was a brief discussion, initiated by Councilman Mumpower, about additional fire stations being LEED certified.

Councilman Mumpower felt that if the numbers are correct, it wouldn't make sense to do anything but what is being proposed. On the other hand, the 2% per year until we reach an 80% reduction in a City that is anticipated to grow by 25% during that period, doesn't seem realistic, but arbitrary. He hoped this is not another fantasy goal. He would also speak against the Sustainability Coordinator. He wondered why the City Manager is not already challenging every department to look for ways to save money on energy.

City Manager Jackson said that it is not new that our organization is sensitive to energy costs and it's not new that our organization sets goals for economizing, fuel usage and evaluating ways to make our buildings more efficient. We are a high performance organization, but we have been short on the tracking systems and overall arching plans for these kinds of goals. He felt the Committee has been very beneficial and would be happy to work with the Committee to take this to the next level.

Councilman Newman felt this is a real important commitment the City is making. He believes there are huge opportunities for energy and economic savings, but it won't be easy. He said that the 80% reduction goal is not arbitrary, but based on what the large majority of the recycling community is telling us that we need to do in order to avoid the serious impact of global warming. By establishing this goal, we need our City employees to think about what we can do to reduce energy but we also need to the community to think about ways to be involved as well.

On behalf of Council, Mayor Bellamy thanked Councilwoman Cape for her leadership on this issue. She felt the goals are realistic and are based on good data. She asked that the next step for the Committee be to develop an education program for our community to be presented to Council. We need to make sure that community is involved and that they understand why it's so important to be involved. She suggested they use the Government Channel, eNews, and flyers.

Mayor Bellamy said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Councilman Newman moved for the adoption of Resolution No. 07-90, establishing energy and conservation goals and benchmarks for the City of Asheville. This motion was seconded by Councilman Freeborn and carried on a 6-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 – PAGE 315

Councilman Mumpower moved for the adoption of Resolution No. 07-91, adopting the LEED Standards (but not create a Sustainability Coordinator position to implement Strategic Energy Management Plan at this time, but include that discussion during the budget process). This motion was seconded by Councilwoman Cape and carried unanimously.

RESOLUTION BOOK NO. 30 – PAGE 316

B. RESOLUTION NO. 07-92- RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2007-08 TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

At the request of Mayor Bellamy, Councilwoman Cape moved to excuse Mayor Bellamy from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Mumpower and carried unanimously.

At this time, Mayor Bellamy turned the gavel over to Vice-Mayor Jones and left the meeting.

Community Development Director Charlotte Caplan said that this is the consideration of a resolution authorizing submission of the City's Consolidated Annual Action Plan for 2007-08 to the U.S. Dept. of Housing and Urban Development.

The City expects to have available \$2,184,696 in CDBG funds and \$1,685,274 in HOME funds to allocate for housing and community development activities in the fiscal year beginning July 1, 2007. The City's Housing and Community Development Committee and the Asheville Regional Housing Consortium have made recommendations for allocating these funds to 39 projects.

A summary of the draft Action Plan was published on March 25. A public hearing was held on April 10. With the end of the required 30-day comment period, staff asks that Council take action to approve the plan on April 24. The plan is due to be submitted to HUD by May 12.

Pros:

- Allocates \$3,869,970 in compliance with federal rules and enables the City to utilize these funds
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium
- Directly addresses most of the priorities set out in the Strategic Plan
- Leverages other funding in the ratio of \$9.40 for every \$1 of CDBG and HOME funds

Cons:

- It is not possible to fund all of the applications received at the level requested.
- Funding for four programs is partially dependent on receipt of program income from a projected land sale.

Staff recommends City Council approve a resolution authorizing submission of the City's Consolidated Annual Action Plan for 2007-08 to the U.S. Dept. of Housing and Urban Development.

Councilman Mumpower said that we about to take approximately \$4 Million from the federal government, and even though there are some good things in this package, we are taking money from people who don't have that money (they are about \$7 Trillion in debt), and will speak against the motion just on that basis.

Vice-Mayor Jones said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Freeborn moved for the adoption of Resolution No. 07-92. This motion was seconded by Councilwoman Cape and carried on a 5-1 vote, with Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 30 – PAGE 318

At this time, Mayor Bellamy re-entered the meeting and Vice-Mayor Jones turned the meeting back over to Mayor Bellamy.

VI. NEW BUSINESS:

A. RESOLUTION NO. 07-93 - RESOLUTION SUPPORTING THE REQUEST OF RENAMING A SECTION OF LONG SHOALS ROAD BETWEEN I-26 AND NC HIGHWAY 191 TO "SERGEANT JEFF HEWITT MEMORIAL HIGHWAY"

Mayor Bellamy said that this request came from Representative Charles Thomas who is working with the Buncombe County Sheriff's Department. She said that in the past, the N.C. Dept. of Transportation has only named bridges for fallen troopers or law enforcement officers. Since there is a bridge on the same road in South Asheville, they have asked that City Council be open to either a bridge or a highway.

Said letter from Buncombe County Sheriff Van Duncan read that "on April 4, 2004, Buncombe County Sheriff's Office Sergeant Jeffrey T. Hewitt was killed in the line of duty while attempting to serve a mental commitment order in southern Buncombe County. Sergeant Hewitt was fatally wounded by a shotgun blast after being ambushed as he and other members of the Sheriff's Office approached the respondent's residence. Sergeant Hewitt's actions on that fatal night possibly saved the lives of the other Deputy Sheriffs. Sergeant Hewitt was an 11-year veteran of the Sheriff's Office and a member of the Sheriff's Emergency Response Team as well as a 6-year veteran of the United States Marine Corps, serving as a Sergeant with the Military Police during Operation Desert Storm. Sergeant Hewitt's life tragically ended in the same community that he not only worked, but had also lived for a number of years with this wife Tracie and stepson Taylor, who continue to reside there. The Buncombe County Sheriff's Office requests that the section of Long Shoals Road (NC Highway 146) between I-26 and NC Highway 191 be renamed the "Sergeant Jeff Hewitt Memorial Highway" in memory of the service and dedication Sergeant Hewitt provided the Sheriff's Office as well as the citizens of Buncombe County. Long Shoals Road is a section of highway Sergeant Hewitt traveled every day, not only in a patrol car, but with his family. Tracie and Taylor continue to travel this road daily. Renaming

this section of road the "Sergeant Jeff Hewitt Memorial Highway" will serve as a constant reminder of the ultimate sacrifice Sergeant Hewitt made in order to ensure a better quality of life for the citizens of Buncombe County."

Councilman Mumpower said that he fully supports honoring Sergeant Hewitt, but recalled that the City has, or is in the process of naming the park at the new Wal-Mart location in his memory. He questioned doing both because there are others who have died in Iraq and Afghanistan who have made sacrifices as well.

Vice-Mayor Jones would support moving forward with this resolution as she felt the portion of the highway would have a greater significance for his family.

Councilman Davis noted that the Asheville Police Department was also involved in the accident of Sgt. Hewitt and should be commended for their work.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 07-93 and asked City staff to research the memorial park at the new Wal-Mart location so that Asheville is only providing one memorial recognition for Sgt. Hewitt - and that recognition would be this request by Representative Thomas. This motion was seconded by Vice-Mayor Jones and carried unanimously.

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VII. OTHER BUSINESS:

A. SALES TAX DISCUSSION

Mayor Bellamy said that on April 11, 2007, City Attorney Oast sent identical letters to Senator Martin L. Nesbitt Jr., Senator Tom Apodaca, Representative Susan C. Fisher, Representative Bruce Goforth, and Representative Charles C. Thomas expressing Council's position on matters relating to local taxation, tax equity, and the current Sullivan Act litigation.

Councilwoman Cape said that Council needs to have the discussion of (1) if we can settle the conditions that we asked for in Resolution #2 of Resolution No. 07-79, how would we determine to use the sales tax for the benefit of the community; and (2) if this tax money does come forward, what would we use it for.

Mayor Bellamy said that one of the conditions from Resolution #2 was "at least 30% - 40% of the sales tax revenues must be earmarked for programs and services that directly support low-wage workers and poverty reduction efforts, such as affordable housing, child care for working families, transit services, or other programs to boost wages for low income workers." City Council has been presented with a draft 10-year Capital Improvement Plan (CIP) for use of the 1/2 cent sales tax in the areas of public safety, housing, transit, Civic Center and sidewalks/ greenways, starting with \$6 Million in 2007-08.

Mayor Bellamy said that she was in Raleigh last week and members of the Chamber of Commerce were talking to the leadership of the General Assembly about some possibilities for the City of Asheville to regain the 1/2 cent sales tax. It's important that the City of Asheville have a plan to use the money if received, opposed to it being assigned for us.

Councilman Davis felt that this draft CIP directly affects our ability to have a lower property tax rate and to provide a lot of amenities for our community that we need to provide. He

felt that pay-as-you-go is a good thing, but there are opportunities here in this CIP that is funded that gets us to a better place quicker, which the whole community benefits from.

Councilman Davis moved to support the 1/2 cent sales tax to be used toward a CIP, with the details being worked out at a later date. This motion was seconded by Councilwoman Cape.

Councilwoman Cape noted that this is a draft CIP and wouldn't support putting public safety in these expenditures. Personally, she would like to see us concentrate on the items we said would relieve a burden for low-wage workers and poverty reduction efforts, through transit and affordable housing initiatives. She recommended that we consider a small line item in this for HUB contribution as we go forward with the economic development picture in this community.

Councilman Newman strongly opposed this. With this draft CIP, he felt we are not even trying to earmark a significant percentage of the funds on poverty reduction or focused programs that benefit low-wage working families. To put a little bit of money in the Housing Trust Fund and \$100,000 for transit is a poor starting point for discussion.

Councilman Freeborn could potentially get behind something like this draft CIP. He has heard that we don't have much of a chance getting the 1/2 cent sales tax because the state is going to keep it. His preference would be that the state give it back to the people and let them spend it. He assumes, in the draft CIP, we would be floating a bond for \$4 Million for the relocation of the transit center. He would need a lot more information about that before he would agree to anything like that. If we put money towards transit, it needs to be significant dollars. Regarding housing, he would like to see us put more money toward redevelopment projects. We need to be serious about breaking up concentrated poverty in our community and \$400,000 a year isn't going to do it. The money for the sidewalks/greenways and the Civic Center is good, but he does have a concern of spending \$10 Million for an emergency training center.

Mayor Bellamy said that conversations are being held about the 1/2 cent sales tax and we need to have a plan to use the money because there are other competing forces for our \$6 Million, e.g., HUB.

Councilman Freeborn felt that City staff should have provided this information to Council ahead of time so that there could have been a more productive discussion.

Vice-Mayor Jones said that Asheville is already on record saying that they would support a new sales tax only under certain conditions, which were outlined in Resolution #2, including "at least 30% - 40% of the sales tax revenues must be earmarked for programs and services that directly support low-wage workers and poverty reduction efforts" and the draft CIP does not address those conditions in the 30-40% range. Nothing against the HUB Project and as good as the goals may be, the \$6 Million out of the pocket of the working people of Asheville is not where it should be funded from.

Councilman Mumpower said that there are no circumstances under which he would envision supporting a sales tax increase.

Councilwoman Cape said that we have stated clearly that there are things that we would like to see if this goes forward. It's also fair for us to say what we would use this money for. The draft CIP needs to reflect that. The option that we have here is that we can get really creative about how we can use this money because we can bond off this money if it's a steady revenue stream coming forward, e.g., a build out of the transit system, some significant redevelopment programs, parks and greenways, and the Civic Center. She didn't think using the \$6 Million for HUB is smart, but there are very loud and strong people who are talking about that. She said it could be part of our funding stream, because the economic picture that the HUB will offer will help our issues of affordability, jobs, etc., as the ultimate goal of the HUB is to create jobs and a good

quality of life. She would delete the public safety from the draft CIP and look creatively at what the funding mechanisms of this money with HUB having a little piece at the bottom.

Councilman Davis and Councilman Freeborn could support Councilwoman Cape's ideas.

Councilman Davis restated his motion to support the 1/2 cent sales tax to be used toward a CIP (not the draft one), with at least 30-40% of the sales tax revenue being earmarked for programs and services that directly support low-wage workers and poverty reduction efforts, with the details being worked out at a later date, and with a small portion being allocated to the HUB project.

Mayor Bellamy explained that City staff tried to do their best in the draft CIP to address Council's request that at least 30-40% of the sales tax revenue being earmarked for programs and services that directly support low-wage workers and poverty reduction efforts.

Councilman Newman said that another condition from Resolution #2 was that "Asheville is allowed to use a 1% hotel occupancy fee (either from an increase or the existing revenues) for renovation of the Asheville Civic Center and/or other public venues, e.g., the performing arts center." Those parts of the discussion are not happening. Part of the other dynamic is that if Council gives them a list, then they will say City Council has fully endorsed this and this is what they are asking us to do. That is how that information will be used in the legislature.

Mayor Bellamy wanted to make sure that Council knows that as Mayor, every part of the motion that was adopted by Council is moving forward.

In response to Councilman Newman, Councilwoman Cape said that there has been talk about a comprehensive transit plan that she would like to see us be able to fund, whether that is solid infrastructure around an expansion of a regional transportation network, in conjunction with the County eventually, or some infrastructure for street car light rail in conjunction with buses. If we can put together a good transit picture and really fund it, she thinks it would be a high value to the working people in this community. She also thinks we have redevelopment opportunities on the land behind McCormick Field, or an affordable housing fund that has more depth to it.

Councilman Freeborn said that we have a transportation study underway to look at taking our transit system and expanding it regionally. And then there is money aside in the Transportation Improvement Plan to assess our route structure, look at what resources we have, how they are being utilized, where we would expand, how we would do that, and what resources are needed. He suggested that we decide how much of this we would want to put towards transit and put that amount of money towards implementing those plans. That would be his suggestion for transit.

Councilman Davis said we are all aware of how difficult concentrated poverty is and not giving people hope to get out of it. A worthy goal would be to fund a portion for McCormick Heights and the transit part is good if we can come up with a workable plan.

Vice-Mayor Jones suggested that if the state is thinking of keeping the 1/2 cent sales tax and not give it back to the working people, that they give the \$6 Million to our community for mental health services.

The motion made by Councilman Davis and seconded by Councilwoman Cape carried on a 4-3 vote, with Mayor Bellamy, Councilman Davis, Councilwoman Cape and Councilman Freeborn voting "yes" and Vice-Mayor Jones, Councilman Mumpower and Councilman Newman voting "no."

VIII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

IX. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 11:21 p.m.

CITY CLERK

MAYOR